

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BENNIE E. BARNES,)	
)	
Plaintiff,)	
v.)	Civil Action No. 05-112 Erie
)	
STATE OF PENNSYLVANIA, et al.,)	
)	
Defendant.)	

MEMORANDUM ORDER

Plaintiff's civil rights complaint was received by the Clerk of Court on April 11, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on November 29, 2005, recommended that this action be dismissed as legally frivolous in accordance with 28 U.S.C. § 1915(d). The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail at SCI Albion, Plaintiff's address of record, and on the Defendant. No objections were filed. After de novo review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 21st day of December, 2005;

IT IS HEREBY ORDERED that the within action be dismissed as legally frivolous in accordance with 28 U.S.C. § 1915(d).

The report and recommendation of Magistrate Judge Baxter, dated November 29, 2005, is adopted as the opinion of the court.

s/ SEAN J. McLAUGHLIN
United States District Judge

cc: all parties of record